

REMARKS

Claims 1, 6 – 9 and 19 – 27 are now pending in the application.

Double Patenting Rejection

Claim 9 stands rejected based on non-statutory obviousness-type double patenting as being unpatentable over claim 10 of co-pending Application No. 11/564,590. Applicants have amended claim 9 and submit that as amended, claim 9 is no longer obvious over claim 10 of co-pending Application No. 11/564,590. In particular, amended claim 9 now requires that the discharge chamber generally surround the grinding mechanism around and outside a periphery of the stationary grind ring with at least an upper portion of the discharge chamber located above the horizontal plane defined by the rotatable shredder plate. This limitation is not found in claim 10 of co-pending Application No. 11/564,590 and applicants submit that it would not have been an obvious modification of claim 10 to modify claim 10 to have these limitations.

Rejection Under 35 U.S.C. § 102

Claims 1, 3 - 8 and 19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Riley (U.S. Pat. No. 5,340,036). Claims 1 and 19 are the independent claims. Turning first to claim 1, applicants have amended it so that it now requires that the discharge chamber generally surrounds the grinding mechanism around and outside the periphery of a stationary grind ring that surrounds the rotatable shredder plate and that at least an upper portion of the discharge chamber and a discharge port of the

discharge chamber be above a horizontal plane defined by the rotatable shredder plate. Applicants submit that Riley does not disclose a food waste disposer having these limitations. In Riley, the discharge chamber is beneath the shredder plate and does not extend around the outside of the periphery of the stationary grind ring and does not have an upper portion above a horizontal plane defined by the shredder plate. And Riley's discharge port 18 is beneath the horizontal plane defined by the shredder plate.

As discussed in Riley:

Grinder 10 includes an upper grinding section 16. A discharge opening 18 of tangential shape as seen in Fig. 4 is provided in a lower housing 19 from which materials are discharged after grinding.

A rotatable shredder component 20 divides the grinding section 16 of the grinder from the discharge section 19. A gap 21 between the upper and lower housings allows material to fall from the grinding chamber 16 into the lower housing 19. [Riley, col. 3, lines 33 – 41]

See also, Figs. 1 and 5 of Riley where the top of lower housing 19 is shown as ending just beneath the bottom of plate 30 of rotatable component 25 (an illustrative rotatable shredder component 20). Applicants submit that amended claims 1 and 9 are thus allowable over Riley.

Applicants have amended claim 19 to include similar limitations, but in the context of a method, to those discussed above with respect to amended claim 1. Applicants submit that amended claim 19 is thus allowable over Riley.

Claims 6 – 8 and new claim 25 depend directly or indirectly from amended claim 1 and are allowable for at least that reason.

New claim 27 depends from amended claim 19 and is allowable for at least that reason.

With respect to claim 7, it requires that the gap between the discharge chamber and the grind ring defines a cross-sectional area that increases from a first location to the discharge port. Since Riley's discharge chamber is below the grinding mechanism, applicants submit that Riley fails to disclose such a gap. Applicants submit that claim 7 is allowable over Riley for this reason also.

Applicants have cancelled claims 3 and 4.

Rejection Under 35 U.S.C. § 103

Claims 9 and 20 - 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Riley in view of either Galbiati (U.S. Pat. No. 5,731,670) (Galbiati) or Strutz (U.S. Pub. No. 2003/0029947) ("Strutz").

Applicant has amended claim 9 so that it now requires a discharge chamber generally surrounding the grinding mechanism around and outside a periphery of the grind ring with at least an upper portion of the discharge chamber located above the horizontal plane defined by the rotatable shredder plate. For reasons discussed above with respect to the similar limitation added to claim 1, applicants submit that amended claim 9 is thus allowable.

Claims 21 – 24 and new claim 26 depend directly or indirectly from amended claim 9, and are allowable for at least that reason.

Claim 20 depends from amended claim 19, and is allowable for at least that reason.

Claims 1, 3 - 8 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over British Patent 630,494 (of Eureka Williams Corp.) in view of Riley.

Claims 1 and 19 are the independent claims, which applicant has amended as discussed above. In the context of the aspect of Riley that the Examiner proposes to combine with British 630,494, it is important that the discharge chamber and its tangential discharge port 18 be below the grinding mechanism. This is because paddle elements 38 that extend from the bottom of the rotatable component 25 are used to propel the waste material out through the tangential discharge port 18. As explained in Riley:

In accordance with yet a further aspect of the invention, the rotating component is provided with paddles, or extensions, on its bottom surface that move the processed material out of a lower housing of the device outward through a discharge port.

In a yet further related aspect of the invention, the discharge opening is shaped in the form of a tangential area extending off of one side of the cylindrical lower housing area so that the motion imparted to the comminuted material by the rotating paddles effectively blows the comminuted material out of the lower housing. [Riles, col. 1, line 66 to col. 2, line 8]

Thus, Riley teaches away from the combination proposed by the Examiner. For these reasons, applicants submit that amended claims 1 and 19 are allowable over British 630,494 in view of Riley.

Claims 6 – 8 depend directly or indirectly from amended claim 1, and are allowable for at least that reason.

With respect to claim 7, it requires that the gap between the discharge chamber and the grind ring defines a cross-sectional area that increases from a first location to the discharge port. But in the office action mailed December 5, 2006, the Examiner acknowledged that GB 630 494 does not show such a gap. Since Riley's discharge chamber is below the grinding mechanism, applicants submit that Riley also fails to disclose such a gap. Applicants submit that claim 7 is allowable over British 630,494 in view of Riley for this reason also.

Conclusion

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 08-0750, under Order No. 3572B-000142/US from which the undersigned is authorized to draw.

Dated: August 6, 2007

Respectfully submitted,

By R. A. Fuller
Roland A. Fuller, III
Registration No.: 31,160
HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1296
Attorney for Applicant